

FEB 23 2010  
CLERK U.S. DISTRICT COURT  
WEST. DIST. OF PENNSYLVANIA  
FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

MARK J. WHALING,  
PLAINTIFF

VS.

ERIE COUNTY PRISON, et.al.,  
Defendants

) CIVIL ACTION NO. 1:08-cv-210-SJM-SPB  
)  
) MASTERS/JUDGE SUSAN PARADISE BAXTER  
) DISTRICT JUDGE SEAN J. McLAUGHLIN  
)

MOTION FOR EXTENSION OF TIME

AND NOW, Comes, MARK J. WHALING, pro-se plaintiff in  
the above captioned matter, who moves this Honorable Court for an  
extension of time in which to file a response to my motion for  
reconsideration, and in support thereof, Plaintiff avers as follows:

- 1.) That by ORDER of this Honorable Court of Feb. 10, 2010,  
Plaintiff shall file a response to my motion for reconsideration  
on or before March 2nd, 2010.
- 2.) Plaintiff avers, that, he (plaintiff) is in the process of being  
transferred to another state correctional institution unknown  
to Plaintiff at this present time.
- 3.) Plaintiff avers, that he (plaintiff) has been in administrative  
custody since the beginning of Feb. 2010 and has not had any access  
to the law library since being housed in administrative custody,  
thus, violating the standards set forth in MARANGE -vs- Fontenot,  
879 F.Supp. 679 (E.D.TEX 1995).

- 4.) Plaintiff avers, that, by the time this Honorable Court receives this motion for extension of time plaintiff should have been transferred or will be transferred shortly thereafter, according to the program review committee here at SCI-Frackville.
- 5.) Plaintiff avers, that, it is apparent in this Honorable Courts modified order of Feb. 3, 2010, that Plaintiff has an Eighth Amendment claim of CRUEL AND UNUSUAL PUNISHMENT and can prevail as to the same.
- 6.) Plaintiff avers, that in accordance with the modified order of Feb. 3, 2010, Plaintiff's Motion has been granted and Defendants aren't entitled to immunity for their actions under Pennsylvania's Political Subdivision Tort Claims Act, 42 Pa.C.S.A. §§ 8541, et seq. and therefore, Plaintiff feels this action is ripe for trial.

WHEREFORE, your pro-se Plaintiff MARK J. WHALING  
IN THE INTEREST OF JUSTICE MOVES THIS HONORABLE COURT FOR  
AN EXTENSION OF TIME IN WHICH TO FILE A RESPONSE TO  
33 MOTION FOR RECONSIDERATION

Respectfully submitted,

ISI Mark Whaling  
Mr. Mark J. Whaling #FW-9846  
1111 Altamont Blvd.  
Frackville, Pa. 17931

MARK J. WHALING #FW-9846  
PRO-SE PLAINTIFF

CERTIFICATE OF SERVICE

I, MARK J. WHALING, hereby certify, THAT  
I AM THIS DAY SERVING THE FOREGOING MOTION FOR  
EXTENSION OF TIME UPON THE PERSON(S) AND IN THE  
MANNER TISSED BELOW:

SERVICE by FIRST CLASS MAIL ADDRESSED AS follows:

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT of PA  
CLERK'S OFFICE  
17 SOUTH  
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Respectfully Submitted

(S) Mark whaling  
MARK J. WHALING, #FW9846  
PRO-BE PLATINUM